

COMMONWEALTH OF MASSACHUSETTS

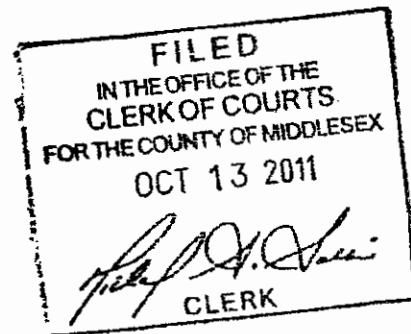
MIDDLESEX, ss.

SUPERIOR COURT  
DEPARTMENT OF THE  
TRIAL COURT  
CIVIL ACTION NO.

11-3635

ARMENIAN LIBRARY AND MUSEUM OF )  
AMERICA, INC., )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
MAYER MORGANROTH, )  
 )  
Defendant. )

COMPLAINT



The Armenian Library and Museum of America, Inc., as its Complaint for Declaratory Relief against Mayer Morganroth, states as follows:

PARTIES

1. Plaintiff Armenian Library and Museum of America, Inc. ("ALMA") is a duly organized and existing Chapter 180 corporation and is qualified as tax-exempt under the Internal Revenue code. Plaintiff has a principal place of business in Watertown, Middlesex County, Massachusetts.

2. Defendant Mayer Morganroth, an attorney, is the Personal Representative of the will of the late Jack Kevorkian of Royal Oak, County of Oakland, State of Michigan, who died on June 3, 2011.<sup>1</sup>

FACTS AND ALLEGATIONS

3. Plaintiff ALMA is a nationally known ethnic Armenian museum with an extensive collection of paintings and artifacts and a substantial library of books and other publications.

<sup>1</sup> The original named Personal Representative, Flora Holzheimer, Dr. Kevorkian's sister, declined to serve and authorized Dr. Kevorkian's niece, Ava Janus, to act in Ms. Holzheimer's place. Ms. Janus apparently is not, however, the Personal Representative.

4. Dr. Kevorkian is the creator of seventeen paintings that are the subject of this action (collectively “the Art Work,” which expression also includes writings, some musical compositions, a sweater, and a hat).

5. In 1999, a representative of the Ariana Gallery in Royal Oak, Michigan and Gary Lind-Sinanian, who was and still is Plaintiff’s curator, discussed the mounting of an exhibit of the Art Work at Plaintiff’s main gallery. As a result of that discussion, Mr. Lind-Sinanian drove to Michigan to receive the Art Work.

6. In Michigan, a representative of the Ariana Gallery unexpectedly presented Mr. Lind-Sinanian with a document dated July 26, 1999 that outlined certain terms of the proposed exhibition of the Art Work at ALMA. Mr. Lind-Sinanian had no authority to sign such a document without consulting his superiors. He did sign it and a copy is attached hereto as Exhibit A.

7. Thereafter, beginning in September 1999 and following for about two months, Plaintiff exhibited the Art Work (“First Exhibit”) in its main gallery. Because of Dr. Kevorkian’s notoriety for advocating assisted suicide, the First Exhibit received considerable attention.

8. Upon information and belief, at the time of the First Exhibit, Dr. Kevorkian was in prison in Michigan.<sup>2</sup> At Dr. Kevorkian’s request, his sister, Flora Holzheimer, a resident of Germany, attended the opening of the First Exhibit.

9. At the reception for the opening of that Exhibit, Ms. Holzheimer announced that Dr. Kevorkian had instructed her to inform Plaintiff that the Art Work was a gift to Plaintiff from Dr. Kevorkian. She announced the gift of the Art Work to a substantial audience at the opening reception.

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<sup>2</sup> Dr. Kevorkian served time in prison from 1999 to 2007.

10. On September 23, 1999, a local newspaper published an article, attached hereto as Exhibit B, about the First Exhibit entitled "Kevorkian donates his artwork to ALMA." The article quotes Ms. Holzheimer as saying, "[Dr. Kevorkian's] paintings shall become the permanent possession of this museum." Ex. B.

11. In reliance upon this gift, Plaintiff maintained and continued to maintain the Art Work as part of its permanent collection during the twelve years that have since elapsed. Plaintiff expended considerable time, effort, and expense to preserve and maintain the Art Work in a climate-controlled vault.

12. Plaintiff has a policy never to retain paintings or collections unless they have been donated outright to Plaintiff. This policy has existed for at least thirty years.

13. During the twelve years since Plaintiff's acquisition of the Art Work, the paintings have remained part of the permanent collection of ALMA.

14. In October 2008, Plaintiff again exhibited all of the Art Work in its main gallery ("Second Exhibit").

15. Dr. Kevorkian attended the opening of the Second Exhibit and, before a large audience, with microphone in hand, explained the meaning of each painting. During the intermission, Dr. Kevorkian stated that he was very pleased that he had donated his entire collection to Plaintiff. A newspaper article, attached as Exhibit C, explained that "[Dr. Kevorkian] donated all of them to the museum, and its Executive Director Mariam Stepanyan decided to show them [all] for the second time in the museum's history."

16. Dr. Kevorkian's will was purportedly executed on May 16, 2011, about seventeen days before his death on June 3, 2011. Plaintiff has no knowledge of whether the will was validly executed without undue duress or influence nor whether Dr. Kevorkian was legally

competent. Nevertheless, the Michigan court allowed the will, of which Plaintiff had no advance knowledge.

17. Defendant sent Plaintiff a letter dated September 23, 2011. In the letter, Defendant stated, "All of Dr. Kevorkian's assets and estate, including the paintings on display and exhibition at your museum, were left to his niece, Ava Janus."

18. Also in the letter, Defendant stated that the Art Work was scheduled for a public auction at the New York Institute of Technology on or about October 27, 2011. Concurrently, Plaintiff's staff was surprised to see email reports that the Art Work was scheduled for auction in New York in October 2011. Upon information and belief, Defendant had attended the opening of the First Exhibit and was aware that the Art Work was a gift to Plaintiff.

19. Defendant apparently arranged for an auction of Plaintiff's Art Work to occur in New York City in October 2011 without any prior communication to Plaintiff.

20. By email, Plaintiff's Acting Director, Berj Chekijian, requested that Defendant, the Personal Representative of the estate, provide Plaintiff with a copy of Dr. Kevorkian's will.

21. In response, Defendant immediately telephoned Mr. Chekijian and demanded that all of the Art Work be sent to New York. Defendant threatened during the telephone call to instruct the police to remove the Art Work if Plaintiff did not send it. Thereafter, in an October 4, 2011 email to Mr. Chekijian, attached hereto as Exhibit D, Defendant accused Plaintiff of "theft of the estate's property."

**COUNT I**  
**(Declaratory Judgment)**

22. ALMA realleges and incorporates by reference its allegations in paragraphs 1 through 21 above.

23. An actual controversy exists between Plaintiff and Defendant as to their respective rights concerning the Art Work.

24. Resolution of this dispute by the entry of judgment declaring the rights of the parties is necessary and appropriate under the existing facts and circumstances.

25. Judgment will serve a useful purpose in clarifying and settling the parties' legal rights in the Art Work and will terminate the controversy giving rise to this action.

**PRAYERS FOR RELIEF**

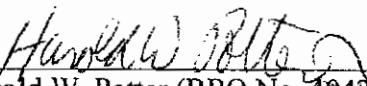
26. WHEREFORE, Plaintiff ALMA prays that this Court grant the following relief:

- a) Enter a final judgment declaring that:
  - i. Defendant has no legal right to the Art Work, and
  - ii. Plaintiff is the sole owner of the Art Work;
- b) Award Plaintiff all costs, including attorneys fees, that it has incurred in this matter;
- c) Award Plaintiff such other relief as the Court may deem just and proper.

Respectfully submitted,

ARMENIAN LIBRARY AND MUSEUM OF  
AMERICA, INC.

By its attorneys,

  
Harold W. Potter (BBO No. 404240)  
*harold.potter@hklaw.com*  
Zsaleh E. Harivandi (BBO No. 678891)  
*zsaleh.harivandi@hklaw.com*  
HOLLAND & KNIGHT LLP  
10 St. James Avenue, 15th Floor  
Boston, MA 02116  
(617) 523-270 0

Dated: October 13, 2011  
Boston, Massachusetts

EXHIBIT A

Ariana Gallery  
119 South Main  
Royal Oak  
Michigan 48067  
Tel: (248) 546-8810  
Fax: (248) 546-6194

July 26, 1999

Gary Lind-Sinanian, Curator  
Armenian Library and Museum of America, Inc.  
65 Main Street  
Watertown, MA 02172

Re: Dr. Jack Kevorkian Exhibition

Dear Gary:

- 1) The opening of the show is scheduled for Saturday, September 18, 1999 and the show will run through the end of October. I will arrive in Boston on Friday, the 17<sup>th</sup> of September.
- 2) We anticipate that the paintings will be picked up by you or a member of your staff and driven directly to your gallery/museum in Watertown. ALMA will be responsible for the cost of transportation of the artworks as required to and from Royal Oak, Michigan and Watertown, Massachusetts.
- 3) From the time that a representative of the Armenian Library and Museum of America, Inc. (which shall be referred to as ALMA for the remainder of this contract) assumes possession of the paintings to their return to us, the paintings must be covered by ALMA's insurance.
- 4) Dr. Jack Kevorkian hereby warrants that he created and possesses the unencumbered title to any works of art inventoried in ALMA's possession. The Kevorkian artworks are entrusted to ALMA but shall remain the exclusive property of Dr. Kevorkian.
- 5) ALMA has the right to copy, photograph or reproduce any of Dr. Kevorkian's artworks in its possession for the purpose of appearance in a catalogue or advertisement.
- 6) We understand that publicity will be arranged as outlined in your letter.
- 7) ALMA will be entitled to a 20% sales commission on all sales of Dr. Kevorkian's signed and numbered posters and giclee prints during the term of this agreement.

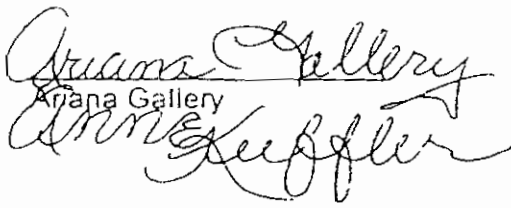
Page Two

- 8) Security is a prime concern surrounding Dr. Kevorkian's artwork. A professional security guard must be present for the entire duration of the show with perhaps additional security for the show opening.
- 9) This agreement constitutes the entire understanding between Dr. Kevorkian and ALMA. Its terms cannot be modified except in writing that is signed by all parties - ALMA, Dr. Kevorkian and/or his attorney Mayer Morganroth.
- 10) The paintings will be returned upon the request of Dr. Kevorkian at the close of the exhibition at the end of October, or at such further extended date that would be agreeable between the parties, with reasonable time for them to be packaged and prepared for transportation
- 11) If any part of this agreement is held to be illegal, void or unenforceable for any reason, such holding shall not affect the validity and enforceability of any other part.

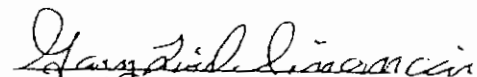
Please contact me to confirm the proposals listed above.

Received from:

Delivered to:

  
Ariana Gallery  
Anne Keppeler

Date

  
Armenian Library &  
Museum of America, Inc.

27 July 99

Date

EXHIBIT B

# Kevorkian donates his artwork to ALMA

## Supporters praise his work during exhibit's opening

By Nancy Kalajian  
TAB & PRESS CORRESPONDENT

Loud applause heralded the surprise Saturday night announcement by Flora Holtzheimer that her older brother, Dr. Jack Kevorkian, wishes to keep his artwork in Watertown at the Armenian Library and Museum of America where it is currently on special exhibit.

"His paintings shall become the permanent possession of this museum," said Holtzheimer, who flew from her home in Germany to attend the opening reception for the museum's new exhibit, "Through a Glass Darkly: the Art of Dr. Jack Kevorkian." During the evening's program, she also acknowledged the

"magnificent job" of ALMA's staff and volunteers in running the museum and putting this unique exhibit together. The exhibit will run through Oct. 24.

Though Kevorkian is now serving a prison sentence in Michigan for the assisted suicide of Thomas Youk, his wife, Melody Youk, attended the art opening. Youk, who choked up at times during her brief remarks to the invited guests, said she had a strong impression of ALMA's collections and resources, and reiterated her unwavering support of Dr. Kevorkian.

"We need tolerance to live in our world and that includes the final moments. I admire him greatly. He put himself in harm's way," said Youk.

Other guests who flew in from Michigan included Ruth Hodges, Kevorkian's personal assistant, and Ann Kuffer of Ariana Gallery in Royal Oaks, who had twice exhibited Kevorkian's artwork in Michigan. Hodges reported that Kevorkian has been moved from a maximum- to a medium-security facility, and can now go to the prison library where he was able to conduct research and select appropriate art-related

quotes that accompany the exhibit. According to Hodges, Michigan attorney Mike Morgenroth will represent Kevorkian in an appeal for a new trial.

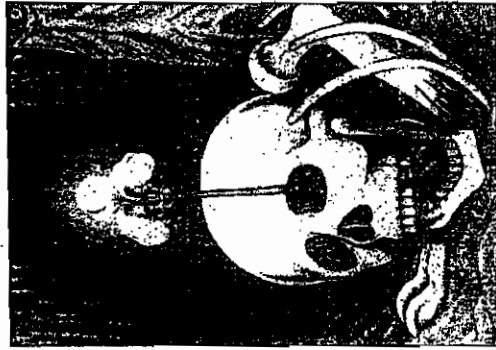
Sarah Holmes, Hodge's daughter, was also in attendance and explained how she had an opportunity to play flute duets with the Kevorkian prior to his sentencing.

"Dr. Kevorkian is so multi-faceted. Dr. Death — it's such a negative connotation — is such a small part of who he is. His paintings reveal the compassion, the integrity and truth his character represents. No one knew he's a poet, musician, linguist and artist," said Hodges, who has become adept at handwriting analysis.

"His writing has rhythm, speed, originality, creativity, harmony and symmetry ... he's highly intelligent," she added.

In fact, many of those who know Kevorkian best describe him as a kind, warm, humorous, sensitive man, even a genius. The first East Coast showing of Kevorkian's art at ALMA gives viewers the experience to see the sides of him that many people have never had the chance, or perhaps even the desire, to explore. One cabinet display exhibits 14 cherished, mostly black and white photographs full of family memories that Kevorkian lovingly preserved for decades.

Viewers may be surprised to learn that Kevorkian is a fan of Benny Goodman and Artie Shaw, and smiles easily when hearing the swing sensa-



COURTESY PHOTO  
"Very Still Life" is one of the paintings Kevorkian is donating to ALMA.

tion "Celery Stalks at Midnight." Not only does he play the piano, organ, harpsichord and flute, but his composition of classical pieces such as the Suite for 2 Flutes (Münster) has raised some musical eyebrows.

"Attempting to compose my own music has been both curiously satisfying and one of the most intellectually challenging things I have ever done," may I add, also the most humbling," wrote Kevorkian about his numerous compositions.

Kevorkian is so endeared to Bach that it's the only "official" background music exhibit visitors will experience. "Chromatic Fantasy and Fugue," painted earlier this year, shows a portrait of Bach in his center surrounded by two dazzling pieces of art.

"He's not interested in getting rich. No one but a hero would do what he's doing. Reality is what drives him. He depicts reality as opposed to wishful thinking," said Holtzheimer. "It's very upsetting. He's my sibling ... he would do what anyone would do to help someone with unbearable suffering."

Along with each of the 15 oil paintings on display are Kevorkian's own explanations to the art. He recreated from memory many of the paintings on display 35 years after he first painted the same images that were later stolen from a storage facility. In some cases, recently discovered photographs of the original paintings are displayed next to the recreations of amazing to viewers because of their remarkable similarities.

Esther Agabian, a Watertown artist, said Kevorkian met a difficult challenge after the theft.

"He had to express himself a second time on the same subject matter," she said.

In "1915 Genocide 1945," a work framed with barbed wire and smudges of Kevorkian's own blood, shows the head of a sorrowful woman wearing a different earring on each ear, one represents the Armenian flag, and the other the Star of David. When Melody Youk asked Kevorkian about this work, she said he told her, it's a bonding with my people."

Richard Humber, Wang Center Trustee, describes it as "a comparison of death by race. The exhibit makes you think. You have to look at each painting more than once to see and feel the real impact."

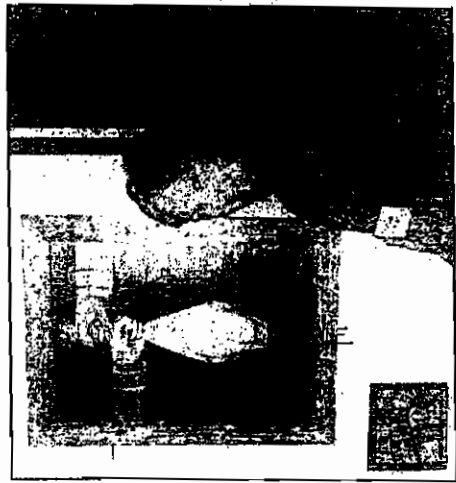
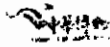


PHOTO BY NANCY KALAJIAN  
Melody Youk, widow of Thomas Youk, stands with Kevorkian's painting "1915 Genocide 1945" which commemorates both the Armenian genocide and Nazi Holocaust.

EXHIBIT C



## Dr. Jack Kevorkian to show paintings at Watertown museum

Oct 03, 2008 By Steve Bagley

Think about Dr. Jack Kevorkian for a moment.

Now get that image out of your head.

An exhibition of Kevorkian's paintings, "The Doctor Is Out," going up this weekend at the Armenian Library and Museum of America on Main Street, is about the other side of Kevorkian's life: his work as an artist.

Kevorkian, son of two immigrant survivors of the Armenian Genocide, turned to painting as a hobby, and produced 16 canvases over time. He donated all of them to the museum, and Executive Director Mariam Stepanyan decided to show them for the second time in the museum's history.



By courtesy of Armenian Museum and Library of America

The last time the museum displayed Kevorkian's work, nine years ago, it was during his trial. Now, though, there's no such controversy hanging over the artist. Stepanyan said her reasons for hanging the paintings again are simple. "He's a contemporary artist, he's an Armenian-American, and we own the art. We have the right to display it whenever we want."

Stepanyan said she and the museum are not taking a stance on Kevorkian's conviction for second-degree murder, for which he served prison time from 1999 to 2007.

Kevorkian's art is very provocative and blunt. It is not for the squeamish.

A painting, "Paralysis," illustrates a man slowly turning into stone, a worried, pained expression on his face as he examines his gray left

hand, clutching it in his still-flesh right. A painting called "1915 Genocide 1945" equates the Armenian Genocide with the Holocaust by featuring a Nazi and an Ottoman arm both holding a decapitated head with one Star of David earring and one earring featuring the Armenian flag's design.

Kevorkian's explanation of "1915 Genocide 1945" is as blunt as the images themselves, as he explains the need to commemorate the two slaughters: "To fail to take but token interest in the whole ugly affair, to avoid making it almost hereditary memory, would be abdicating decent human responsibility and thereby assuring recurrence - as is happening at this very moment."

The ALMA exhibition is divided into three categories, Stepanyan said, dealing with three themes: medical themes, like "Paralysis;" political themes, like "Genocide;" and musical themes.

"Kevorkian is very inspired by Bach," Stepanyan said

The blunt, forthright nature of Kevorkian's art is in keeping with his personality, Stepanyan said. "If you were to kind of soften the edges of what he was saying, it would be a lot more palatable," she said. "But he's not that kind of person."

The challenging nature of Kevorkian's art is one Stepanyan wholeheartedly supports. "Art is not just landscapes. It's examining the layers of the human soul."

Kevorkian's work will be on display starting Oct. 5. Kevorkian will be at the museum from 3-5 p.m. Sunday to commemorate the exhibition's opening.

[From wickedlocal.com]

**Previous** World-Class Museum Announces Opening Date

**Next** Sculptor Marc Quinn immortalises Kate Moss in gold at British Museum

(Press Key <- -> to turn page)

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EXHIBIT

D

## **Berj Chekijian**

---

**From:** Mayer Morganroth [MMorganroth@morganrothlaw.com]  
**Sent:** Tuesday, October 04, 2011 1:23 PM  
**To:** Berj Chekijian  
**Subject:** RE: Kevorkian Paintings  
**Attachments:** Last Will and Disclaimer (00033500).PDF

This is not a "request", it is a demand for the return of personal property.

As stated in my letter dated September 23, 2011, I am the personal representative and executor of the estate of Dr. Jack Kevorkian. I was also his attorney for over 17 years.

I am attaching to this email a copy of Dr. Kevorkian's Last Will and Testament, along with a disclaimer signed by his Sister, Flora Holzheimer (which are confidential). Included in my September 23 letter was a copy of the July 26, 1999 Agreement ("Agreement"). You have nothing else in your possession executed by Dr. Kevorkian nor myself changing this Agreement and I expect you to fully comply with same or you will be converting and committing theft of the estate's property.

I will be informing you of the arrangements made for pick up and directions to be followed regarding same.

**From:** Berj Chekijian [mailto:BERJC@almainc.org]  
**Sent:** Tuesday, October 04, 2011 12:46 PM  
**To:** Mayer Morganroth  
**Cc:** haig.manuelian@hklaw.com; Gary Lind-Sinanian  
**Subject:** Kevorkian Paintings

Dear Mr. Morganroth,

My name is Berj Chekijian and I am the acting Executive Director of the Armenian Library & Museum of America Inc. in Watertown, Massachusetts.

The Curator of the Museum, Gary Lind-Sinanian, delivered to me a letter from your office dated September 23, 2011 regarding Late Dr. Kevorkian paintings.

Please send me by email, if possible, the entire **Will** as signed, as soon as possible so that I can give it to the appropriate officers of the Executive Board of the Armenian Library and Museum of America  
So that they can address your request stated in your letter.

Thanks  
Best regards

Berj Chekijian

617 926-2562 ext. 7

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Berj Chekijian

617 926-2562 ext. 7

Ariana Gallery  
119 South Main  
Royal Oak  
Michigan 48067  
Tel: (248) 546-8810  
Fax: (248) 546-6194

July 26, 1999

Gary Lind-Sinanian, Curator  
Armenian Library and Museum of America, Inc.  
65 Main Street  
Watertown, MA 02172

Re: Dr. Jack Kevorkian Exhibition

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Please contact me to confirm the proposals listed above.

Received from:

Delivered to:

*Ariana Gallery*  
Ariana Gallery  
*Anne Keuffler*

Date

*Hayk Z. Limerian*  
Armenian Library &  
Museum of America, Inc.

27 July 99

Date

*ARIANA Gallery Posters*

- 42 ~~#50~~ Nearer My God to Thee*
- 49 Avery Still Life*
- 30 Fever*
- 30 Brotherhood*
- 45 Gourmet*
- 30 For He Is Risen*